

Amendments to assimilated Regulation 2019/1793: Official Controls Applied to Imported High Risk Food and Feed not of Animal Origin

Launch date: Thursday 14 March 2024

Respond by: Thursday 25 April 2024

This consultation will be of most interest to

All England and Wales food and feed businesses, local and port health authorities, and other stakeholders with an interest in food and feed safety. A separate, parallel, consultation has been launched in Scotland by Food Standards Scotland (FSS).

Consultation subject

Consultation on proposed amendments to the lists within assimilated Commission Implementing Regulation 2019/1793 (“Regulation 2019/1793”) which applies a temporary increase of official controls and special conditions governing the entry into Great Britain of specified food and feed of non-animal origin from specified countries.

Purpose of the consultation

To seek stakeholder comments on proposed amendments to the lists in the Annexes of Regulation 2019/1793.

How to respond

Responses to this consultation should be marked 'Regulation 2019/1793 consultation' and be sent by 5pm, on Thursday 25th April 2024 to Imported.Food@food.gov.uk (in England) or lasupportwales@food.gov.uk (in Wales).

Details of consultation

Introduction

The appropriate authority is required to review the lists set out in the Annexes to the Regulation on a regular basis to consider new information related to risks and non-compliance. The appropriate authorities in Great Britain (GB) are responsible for updating the imported food legislation as required. The appropriate authorities are the Secretary of State in England, Welsh Ministers in Wales, and Scottish Ministers in Scotland, with Ministers in Northern Ireland kept informed.

The Food Standards Agency (FSA) and Food Standards Scotland (FSS) have carried out a joint review of the lists contained in the Annexes to the Regulation 2019/1793. Updating the lists will require a Statutory Instrument to be made for each GB country (England, Wales and Scotland).

This review is delivered through the joint FSA and FSS risk analysis process so that Ministers can make risk management decisions based on the FSA/FSS recommendations.

It should be noted that decisions in relation to, and changes to, the lists of imported food and feed from third countries that are subject to enhanced controls within Regulation 2019/1793 will only apply in GB. The FSA/FSS continue to ensure that consumers across the UK benefit from the same level of robust public health protection, even where the rules might be slightly different. For the avoidance of doubt, in line with the Government's commitment to ensuring Northern Ireland's unfettered access to the GB market, none of the proposals below would in any way introduce new checks or controls on qualifying Northern Ireland goods moving from the island of Ireland to GB.

Current controls

Most food and feed of non-animal origin can be imported into GB without additional, enhanced controls. However, imports of higher risk food and feed of non-animal origin from specified countries can only enter GB through appropriately designated Border Control Posts (BCP) where official controls are undertaken including documentary, identity and physical examinations including sampling.¹ A higher risk product is food or feed that is identified as either a known or emerging risk or because there is evidence of widespread serious non-compliance with the UK agri-food chain legislation. This may be due to the presence of pathogens, contaminants and toxins including aflatoxins.

Regulation 2019/1793 sets out, in its Annexes, lists of higher risk food and feed of non-animal origin that are subject to enhanced border controls.

Consignments of food and feed listed in Annex I to Regulation 2019/1793 are subject to a temporary increase of official controls at BCPs on entry into GB at control points.

Annex II to Regulation 2019/1793 sets out the list of consignments of food and feed from certain third countries subject to special conditions for the entry into GB due to contamination risk by mycotoxins (including aflatoxins), pesticide residues, pentachlorophenol and dioxins, and microbiological contamination.

Review

The review followed the Risk Analysis Process established by the FSA and FSS. Imported food and feed of non-animal origin from specific countries were identified for assessment by the FSA and FSS based on gathered intelligence. These imported commodities were subject to an assessment of the risks to human health; this was performed by risk categorisation.

The outcomes of the risk categorisation were considered, along with other relevant information, by the FSA and FSS risk managers and policy officials when making

¹ As indicated above, this requirement does not apply to qualifying Northern Ireland goods, which will benefit from unfettered access to the GB market (regardless of whether they move to GB directly, or indirectly via Ireland).

proposals for recommendations for changes in official controls. All proposed recommendations are science and evidence based.

All recommendations have been developed and considered through a four-nation expert working group, in accordance with the Food and Feed Safety and Hygiene Common Framework, and proposed by officials in Scotland, Wales, England, and Northern Ireland.

Main recommendations

The expert working group has made a set of recommendations concerning commodities that we are recommending changes to the level of official controls for some food and feed from certain countries. The recommendations can be found in the 'impacts' section of this document. We are recommending certain commodities where the evidence suggests that increased official controls are no longer necessary because the risk has been effectively managed by improved compliance, should be removed from the list while others should increase or decrease in their checking frequency depending on the level of risk posed. Adjustments are recommended to reflect food and feed safety risks, ensuring consumers in GB continue to have access to safe imported food.

We propose to make these recommendations to Ministers. Food safety is a devolved matter, and the decisions will be made by Ministers in each devolved country.

Where Ministers agree recommendations, secondary legislation will be required in each nation to amend Regulation 2019/1793. It is intended that legislation to implement the outcome of this review will come into force late 2024.

Impacts

The proposed recommendations involve 25 individual updates to the lists contained in Annexes I and II, which are explained in the table below, and summarised as follows:

- 1 product group (Groundnuts from Brazil for pesticide residues), which includes 7 separate commodities, should be removed from the scope of controls. We have

been monitoring compliance levels of this grouping since listed in the Annexes. Data obtained through our Early Warning System (EWS) and via border and other notifications indicates that the level of risk has significantly reduced. Based on our assessment of the data we consider it is no longer necessary to have enhanced controls in place on the grouping as it shows with a high level of certainty that removal of the controls represents a negligible risk to public health.

- 4 commodities (Guar Gum (Pentachlorophenol and dioxins), Nutmeg for Aflatoxins, Peppers of the *Capsicum* species for Aflatoxins and Sesamum seeds for pesticide residues all from India) should be subjected to reduced checks. Having already subjected these commodities to the highest level of enhanced controls over a number of years, we have gathered sufficient data to have increasing confidence that the level of compliance is improving. These products should be subject to this level of monitoring until we are satisfied the risk posed has reduced further.
- 2 commodities (Tea from China for pesticide residues and Sesamum seeds from India for Salmonella) should be subjected to increased enhanced controls. because we have concerns about the risk they pose to public health. These commodities have been subjected to monitoring and surveillance at GB border control posts over several years. The information obtained from these controls in addition to data from other countries, indicates that levels of non-compliance is not improving. Therefore, more stringent controls, placing the emphasis on the exporting country to provide assurances about the product, are considered appropriate at this time.
- The introduction of 15 new commodities (Mixture of nuts, Hazelnuts Paste and Hazelnut oil from Georgia for Aflatoxins; Cumin seeds, Cumin seeds crushed or ground, Fenugreek leaves and Yardlong beans from India for pesticide residues; Basil and Mint from Israel for pesticide residues; Mukunuwenna from Sri Lanka for pesticide residues; Grapefruits from Turkiye for pesticide residues, Sesamum seeds and Tahini and halva from Sesamum seeds from Turkiye for Salmonella; Groundnuts paste from Madagascar for Aflatoxins; Groundnuts paste from Argentina for Aflatoxins) that should be subjected to controls due to concerns that they present a risk to public health. These commodities have been identified

through EWS as well as sampling data and intelligence from other sources. The products will be subject to a proportionate level of monitoring at GB border control posts to gather evidence which will be used to reach a decision either removing them from controls altogether or increasing the level of checks undertaken.

- 3 commodities (Hazelnuts otherwise prepared or preserved, including mixtures from Georgia for Aflatoxins; Granadilla and Passion Fruit from Colombia for pesticide residues and Bananas from Ecuador for pesticide residues) already under control will have CN codes updated, extending the range of commodities that are subject to checks at the border.

Commodities listed in Annex I to Regulation 2019/1793 are temporarily controlled to help build a picture of whether more stringent measures might be required later. Therefore, any impacts are likely to be short term. Commodities listed in Annex II to Regulation 2019/1793 are more static in nature but are included in the biannual review and once the level of risk changes, the level of control is amended. Decisions on commodities listed in the Annexes to Regulation 2019/1793 are risk based and therefore relate only to the specified country(s) of origin. GB Importers may therefore import from other countries across the globe whose products are not identified as 'high risk' and where enhanced import controls do not apply.

Local and Port Health Authorities are likely to have some familiarisation costs associated with the routine updates, of which we expect to be negligible. The delivery of official controls undertaken at the border can be recovered through the levy of fees and charges. High risk commodities can only be imported through already established BCPs in GB.

Businesses who wish to import products that are subject to increased checks (either because they have been moved from Annex I to Annex II or are completely new additions to either Annex) will incur an additional cost to doing so, as Port Health Authorities typically charge importing businesses to undertake official controls and additional checks are required for those listed in Annex II compared to Annex I. However, these charges are relatively small and businesses may also choose to import from other countries where import controls do not apply, if they do not wish to incur the charges.

The impacts in Wales are also expected to be minimal. There are currently no Border Control Posts in Wales designated for high-risk food and feed not of animal origin. Therefore, the familiarisation costs that apply in England will not apply in Wales.

The main benefit of the changes is in the reduction in the risk to public health, as the controls are targeted and risk-based. This benefit is very difficult to monetise. Although it is possible to identify instances of non-compliance through monitoring and surveillance, it is very difficult to attribute any foodborne disease outbreaks or illnesses to the high-risk imported products, given the range of other, confounding factors at play.

The identification of the food and feed listed in the Annexes are made on the basis of the codes from the Combined Nomenclature and TARIC sub-division.

Proposed amendments are set out in the following Table: Annex I

Annex I – Consignments of food and feed to Regulation 2019/1793 are subject to a temporary increase of official controls at BCPs on entry into GB at control points.

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|---|--|---------------------------|--------------------|--|--|
| Brazil (BR) | Groundnuts (peanuts), in shell (Food and feed) | 1202 41 00 | | Pesticide Residues | | Delist |
| Brazil (BR) | Groundnuts (peanuts), shelled (Food and feed) | 1202 42 00 | | Pesticide Residues | | Delist |
| Brazil (BR) | Peanut butter (Food and feed) | 2008 11 10 | | Pesticide Residues | | Delist |
| Brazil (BR) | Groundnuts (peanuts), otherwise prepared or preserved (Food and feed) | 2008 11 91; 2008 11 96; 2008 11 98 | | Pesticide Residues | | Delist |
| Brazil (BR) | Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of groundnut oil (Food and feed) | 2305 00 00 | | Pesticide Residues | | Delist |
| Brazil (BR) | Groundnut flours and meals (Food and feed) | ex1208 90 00 | 20 | Pesticide Residues | | Delist |
| Brazil (BR) | Groundnuts paste (Food and feed) | ex2007 10 10 ex2007 10 99 ex2007 99 39 | 80 50 07; 08 | Pesticide Residues | | Delist |
| China (CN) | Tea, whether or not flavoured (Food) | 0902 | | Pesticide residues | | Removal from Annex I. Insert into Annex II. Has been added to Annex II table with further details. |
| Colombia (CO) | Granadilla (<i>Passiflora ligularis</i>) and Passion Fruit (<i>Passiflora edulis</i>) (Food) | ex0810 90 20 | 40; 50 | Pesticide residues | 10% | CN code updated under existing listing to reflect the updates to the Tariff website. |
| Ecuador (EC) | Bananas (Food – fresh or dried) | 0803 90 | | Pesticide residues | 5% | CN code updated under existing listing to extend the scope of |

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|---|--|--|---------------|--|---|
| | | | | | | controls and reflect the updates to the Tariff website. |
| Georgia (GE) | Mixtures of nuts or dried fruits containing hazelnuts (Food) | ex0813 50 39 ex0813 50 91 ex0813 50 99 | 70 70 70 | Aflatoxins | 20% | New product under existing listing. |
| Georgia (GE) | Hazelnut paste (Food) | ex2007 10 10 ex2007 10 99 ex2007 99 39 ex2007 99 39 ex2007 99 50 ex2007 99 97 | 70 40 05 06 33 23 | Aflatoxins | 20% | New product under existing listing. |
| Georgia (GE) | Hazelnuts, otherwise prepared or preserved, including mixtures (Food) | ex2008 19 12 ex2008 19 92 ex2008 97 12 ex2008 97 14 ex2008 97 16 ex2008 97 18 ex2008 97 32 ex2008 97 34 ex2008 97 36 ex2008 97 38 ex2008 97 51 ex2008 97 59 ex2008 97 72 ex2008 97 74 ex2008 97 76 ex2008 97 78 ex2008 97 92 ex2008 97 93 ex2008 97 94 ex2008 97 96 ex2008 97 97 ex2008 97 98 | 30 30 15 | Aflatoxins | 20% | Additional CN codes added under existing listing to extend the scope of controls. |

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|---|--|----------------------------------|-------------------------------|--|--|
| Georgia (GE) | Hazelnut oil (Food) | ex1515 90 99 | 20 | Aflatoxins | 20% | New product under existing listing. |
| India (IN) | Cumin seeds (Food) | 0909 31 00 | | Pesticide residues | 10% | New addition to the Annex. |
| India (IN) | Cumin Seeds crushed or ground (Food) | ex0909 32 00 | | Pesticide residues | 10% | New addition to the Annex. |
| India (IN) | Fenugreek leaves (Food) | ex0910 99 10 | | Pesticide residues | 10% | New addition to the Annex. |
| India (IN) | Yardlong beans (<i>Vigna unguiculata</i> subsp. <i>sesquipedalis</i>) (Food – fresh, chilled or frozen vegetables) | ex0708 20 00 ex0710 22 00 | 10 10 | Pesticide residues | 20% | New addition to the Annex. |
| India (IN) | Guar Gum (Food and feed) | ex1302 32 90 | | Pentachlorophenol and dioxins | 20% | Insert into Annex I. Note in next table to remove from Annex II. |
| India (IN) | Nutmeg (<i>Myristica fragrans</i>) (Food – dried spices) | 0908 11 00 0908 12 00 | | Aflatoxins | 50% | Insert into Annex I. Note in next table to remove from Annex II. |
| India (IN) | Peppers of the <i>Capsicum</i> species (sweet or other than sweet) (Food – dried, roasted, crushed or ground) | 0904 21 10 ex0904 22 00 ex0904 22 00 ex0904 21 90 ex2005 99 10 ex2005 99 10 ex2005 99 80 | 11 19 20 10 90 94 | Aflatoxins | 20% | Insert into Annex I. Note in next table to remove from Annex II. |
| Israel (IL) | Basil (holy, sweet) (Food – fresh or chilled herbs) | ex1211 90 86 | 20 | Pesticide residues | 10% | New addition to the Annex. |
| Israel (IL) | Mint (Food – fresh or chilled herbs) | ex1211 90 86 | 30 | Pesticide residues | 10% | New addition to the Annex. |
| Madagascar (MG) | Groundnuts Paste (Food and Feed) | ex2007 10 10 ex2007 10 99 ex2007 99 39 | 80 50 07; 08 | Aflatoxins | 50% | New addition to the Annex. |

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|--|--|--|--------------------|--|-----------------------------|
| Sri Lanka (LK) | Mukunuwenna (<i>Alternanthera sessilis</i>) (Food) | ex0709 99 90 | 35 | Pesticide residues | 10% | New addition to the Annex. |
| Türkiye (TR) | Grapefruits (Food) | 0805 40 00 | | Pesticide residues | 10% | New addition to the Annex. |
| Türkiye (TR) | Sesamum seeds (Food) | 1207 40 90 | | Salmonella | 10% | New addition to the Annex. |
| Türkiye (TR) | Tahini and halva from Sesamum seeds (Food) | ex1704 90 99 ex1806 20 95 ex1806 90 50 ex1806 90 60 ex2008 19 19 ex2008 19 99 | 12, 92 13, 93 10 11, 91 40 40 | Salmonella | 10% | New addition to the Annex. |

Annex II – to Regulation 2019/1793 sets out the list of consignments of food and feed from certain third countries subject to special conditions for the entry into GB due to contamination risk by mycotoxins (including aflatoxins), pesticide residues, pentachlorophenol and dioxins, and microbiological contamination.

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|---|--|---------------------------|-------------------------------|--|---|
| Argentina (AR) | Groundnuts Paste (Food and Feed) | ex2007 10 10 ex2007 10 99 ex2007 99 39 | 80 50 07; 08 | Aflatoxins | 5% | New addition to the Annex. |
| China (CN) | Tea, whether or not flavoured. (Food) | ex0902 | | Pesticide residues | 5% | Insert into Annex II at 5% and remove from Annex I. |
| India (IN) | Guar Gum (Food and feed) | ex1302 32 90 | | Pentachlorophenol and dioxins | | Removal from Annex II. Insert into Annex I. Has been added to Annex I table with further details. |

| Country of origin | Food and feed (intended use) | CN code | TARIC sub-division | Hazard | Frequency of physical and identity checks (%) | Nature of the change |
|--------------------------|---|--|----------------------------------|--------------------|--|---|
| India (IN) | Nutmeg (<i>Myristica fragrans</i>) (Food – dried spices) | 0908 11 00 0908 12 00 | | Aflatoxins | | Removal from Annex II. Insert into Annex I. Has been added to Annex I table with further details. |
| India (IN) | Peppers of the <i>Capsicum</i> species (sweet or other than sweet) (Food – dried, roasted, crushed or Ground) | 0904 21 10 ex0904 22 00 ex0904 22 00 ex0904 21 90 ex2005 99 10 ex2005 99 10 ex2005 99 80 | 11 19 20 10 90 94 | Aflatoxins | | Removal from Annex II. Insert into Annex I. Has been added to Annex I table with further details. |
| India (IN) | Sesamum seeds (Food) | 1207 40 90 | | Salmonella | 30% | Increase frequency of physical and identity checks in Annex II from 20% to 30%. |
| | | | | Pesticide residues | 30% | Reduce frequency of physical and identity checks in Annex II from 50% to 30%. |

Notes:

- The identification of the food and feed products listed in Annexes I and II of official controls are made based on the codes from the Combined Nomenclature and TARIC sub-division indicated in the Annexes. Identity and physical checks, including sampling and laboratory analysis of food and feed listed in the Annexes at a frequency set out in Annexes.
- Consignments of food and feed listed in Annex I to Regulation 2019/1793 are subject to temporary increase of official controls at Border Control Posts at entry into Great Britain and at control points. Annex II to Regulation 2019/1793 sets out the list of consignments of food and feed from certain third countries subject to special conditions for the entry into Great Britain due to contamination risk by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol, and dioxins, and due to microbiological contamination.

Questions asked in this consultation:

1. Do you have any comments on the country/commodity recommendations that are being proposed to update the lists?
2. Are you aware of any impacts of the proposed commodity updates that have not been identified in this consultation?

Engagement and Consultation Process

This consultation will remain open until Thursday 25 April 2024. Once the consultation has ended, a review will be undertaken of the results and a consultation report will be published, with our final recommendations to the respective Ministers.

Publication of responses summary

Within three months of a consultation ending we aim to publish a summary of responses received and provide a link to it from this page.

You can find information on how we handle data provided in response to consultations in our [Consultations privacy notice](#).

Further information

This consultation has been prepared in accordance with [HM Government Consultation Principles](#) (Opens in a new window). If an Impact Assessment has been produced, this is included in the consultation documents. If no Impact Assessment has been provided, the reason will be given in the consultation document.

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

David Lowe, Head of Imports Strategy, FSA England

Kerys James-Palmer, Head of Legislative Strategy, FSA Wales

Annex A: List of interested parties

Local Authorities in England and Wales

Port Health Authorities in England and Wales

The Association of Port Health Authorities (APHA)

UK Major Port Group

UK Airport Operators

Fresh Produce representatives

UK Hospitality representatives

Food and Feed representatives

British Food importer representatives

Packaging organisations

UK Supermarkets

Convenience store representatives

British Retail Consortium

Which?